

**IN THE UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF TENNESSEE  
SOUTHERN DIVISION at CHATTANOOGA**

|                                      |   |                             |
|--------------------------------------|---|-----------------------------|
| <b>IN RE:</b>                        | ) |                             |
|                                      | ) | <b>NO. 10-11001</b>         |
| <b>KATHY D. LAWSON</b>               | ) | <b>CHAPTER 7</b>            |
|                                      | ) |                             |
| <b>Debtor(s).</b>                    | ) |                             |
| <hr/>                                |   |                             |
| <b>RICHARD P. JAHN, JR., TRUSTEE</b> | ) |                             |
|                                      | ) | <b>ADVERSARY PROCEEDING</b> |
| <b>Plaintiff,</b>                    | ) |                             |
| <b>v.</b>                            | ) | <b>CASE NO. 10- _____</b>   |
|                                      | ) |                             |
| <b>BANK OF AMERICA, N.A.</b>         | ) |                             |
|                                      | ) |                             |
| <b>Defendant,</b>                    | ) |                             |
| <hr/>                                |   |                             |

**COMPLAINT TO AVOID LIEN**

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Richard P. Jahn, Jr., Trustee, by and through his attorney, complains of the actions of the Defendant and would show to the court as follows:

1. The Plaintiff is the duly appointed Trustee in this Chapter 7 case. The Defendant is a banking institution qualified to do business in Tennessee.
2. Jurisdiction is in this court pursuant to 28 U.S.C. §1334. Venue is in this district and division pursuant to 28 U.S.C. §1409. This is a core proceeding pursuant to 28 U.S.C. § 157 (b)(2)(K).
3. The Debtor filed her petition on February 22, 2010.
4. At the time of the filing, the Debtor owned real estate at 4224 Crestview Drive, Chattanooga, TN 37415. She owned this as a tenant in common with her husband, Robert A. Lawson.

5. In May, 2005 the Debtor and her husband borrowed a maximum of \$80,500.00 from the Defendant Bank of America. As security for the loan, the Debtor and her husband granted the Defendant a lien on the property at 4224 Crestview Drive.

6. The Debtor and her husband signed a Deed of Trust on November 15, 2006 in favor of Bank of America to secure the loan. It was duly recorded. However, the property description attached to the Deed of Trust was not applicable to Crestview Drive. Instead, it described the Debtor's residence at 4533 Cloverdale Loop in Hamilton County, Tennessee. A copy of the Deed of Trust is attached hereto as Exhibit A.

7. The Hamilton County Register of Deeds has indexed the Deed of Trust as creating a lien on the Cloverdale Loop property, not Crestview Drive.

8. The Trustee is empowered as a judgment lien creditor under §544 of the Bankruptcy Code. The Trustee alleges that the Defendant, Bank of America, has failed to perfect its lien against 4224 Crestview Drive. The Trustee's powers under §544 are superior to those of the Defendant's in this property.

9. Accordingly, the Trustee avers that the Defendant's lien on the Debtor's half-interest in the 4224 Crestview Drive property is avoidable and recoverable for the benefit of the estate under §550 of the Bankruptcy Code.

WHEREFORE, the Trustee prays as follows:

A. That the Court avoid the lien of Bank of America as to the Debtor's half-interest in 4224 Crestview Drive, Chattanooga, Tennessee 37415.

B. That the Court allow the Trustee to recover the property for the benefit of the estate.

C. Grant the Trustee general and equitable relief.

Respectfully Submitted:

By: /s/ Richard P. Jahn, Jr.  
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*Attorney for the Trustee*